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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,268	05/25/2006	Simone Bizzarri	09952.0040	2575

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
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EXAMINER

GEBRESILASSIE, KIBROM K

ART UNIT	PAPER NUMBER
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2128

MAIL DATE	DELIVERY MODE
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01/22/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/580,268	Applicant(s) BIZZARRI ET AL.	
	Examiner KIBROM GEBRESILASSIE	Art Unit 2128	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Kamini S Shah/
 Supervisory Patent Examiner, Art Unit 2128

/K. G./
 Examiner, Art Unit 2128

Continuation of 11. does NOT place the application in condition for allowance because:

Applicants argued that "the final action, however, applied the same art and nearly identical reasons to reject Applicants' amended claims without addressing any arguments presented by Applicants, therefore, the final rejection of pending claims is improper for at least for this reason" (Remarks, pg. 2 third paragraph).

Examiner respectfully disagrees. Examiner introduces a new ground of rejection that is necessitated by applicant's amendments of the claims. Therefore, the final rejection is proper.

Applicants argued that Talapade et al does not disclose or suggest at least the following feature "dynamically configuring said objects, using the computer, to simulate the supply of the service corresponding to said selectively identified quality of service profile" (Remarks, pg. 3, second paragraph).

Examiner respectfully disagrees. Taplade et al discloses "identifying the classes of traffic to be transported in the networks as well as the QOS criteria of the identified class of traffic, by simulating the classes of traffic, one or more QOS mechanisms and their associated parameters may be determined, one or more resources in the network may be allocated (i.e. configuring) based on the QOS mechanisms and parameters (See: Abstract), for each choice of simulation variables, simulator may be invoked to simulate network (See: par [0037]).

Applicants argued that "Ko does not cure the deficiencies of Taplade with respect to at least the claimed "inserting" (Remarks, pg. 4. paragraphs second and third).

Examiner respectfully disagrees. Taplade et al discloses inserting a respective parameters such as link bandwidths, traffic source models, traffic class requirements to the simulator, simulator then simulate each class of traffic according to the traffic source model and apply to one or more routers (See: par [0033]), for each choice of simulation variables, simulator may be invoked to simulate network (See: par [0037]). However, as indicated in previous office action mailed on 10/13/2009, Taplade et al does not expressly disclose "mobile terminals". Ko et al discloses "a terminal 508, is connected to mobile station for sending and receiving commands and data to and from the mobile station and hence to another device (See: par [0099]). It would have been obvious to one of ordinary skill in the art to combine the teaching of Ko et al with the teaching of Taplade et al because both references are drawn to communication networks. The motivation to include the mobile terminal of Ko et al to the system of Taplade et al would be to test data transmission through networks.